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6 Attorneys for Defendant  
DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT,  
7 doing business as "LUFTHANSA GERMAN AIRLINES"

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 SEBASTIAN POGGEL,

12 Plaintiff,

13 vs.

14 LUFTHANSA GERMAN AIRLINES  
and EXPEDIA, INC. dba  
15 EXPEDIA.COM,

16 Defendants.  
17

Case No. CV 12-4794 OW (JEMx)

**DECLARATION OF IVY L.  
NOWINSKI IN SUPPORT OF  
RESPONSE OF DEUTSCHE  
LUFTHANSA  
AKTIENGESELLSCHAFT TO  
ORDER TO SHOW CAUSE RE  
REMAND**

18 I, Ivy L. Nowinski, declare as follows:

19 1. I am an attorney associated with the firm of Condon & Forsyth, LLP,  
20 counsel of record for defendants Deutsche Lufthansa Aktiengesellschaft, doing  
21 business as "Lufthansa German Airlines" ("Lufthansa"), and Expedia, Inc.  
22 ("Expedia").

23 2. I have personal knowledge of the matters stated in this declaration,  
24 except for those matters stated upon information and belief, and, as to those  
25 matters, I am informed and believe that they are true.

26 3. I am submitting this declaration in support of Lufthansa's response to  
27 the Court's Order to Show Cause re Remand. I am submitting this declaration  
28 based upon my review of the plaintiff's small claims complaint in this action, as

1 well as my review of the correspondence between plaintiff and Lufthansa and  
2 plaintiff and Expedia.

3 4. Upon information and belief, on March 14, 2012, plaintiff Sebastian  
4 Poggel ("plaintiff") purchased two first class Lufthansa tickets for round-trip  
5 carriage from Prague, Czechoslovakia, with intermediate stopping points in  
6 Frankfurt, Germany, Johannesburg, South Africa, and Capetown, South Africa.  
7 *See* Exhibit "A" [April 5, 2012 e-mail from plaintiff to Lufthansa].

8 5. Upon information and belief, plaintiff was informed by Lufthansa on  
9 March 23, 2012 that Lufthansa refuted these contracts of carriage, because the  
10 ticket rates were erroneously priced on Expedia's website due to a data entry error.  
11 *See* Exhibit "B" [March 23, 2012 letter from Lufthansa to plaintiff]. In its March  
12 23, 2012 letter, Lufthansa offered plaintiff fourteen days to purchase the tickets at a  
13 substantially discounted price.

14 6. Upon information and belief, On April 4, 2012, Expedia notified  
15 plaintiff that his passenger tickets were cancelled by Lufthansa due to an error with  
16 respect to the rates posted on its website. *See* Exhibit "C" [April 4, 2012 e-mail  
17 from Expedia to plaintiff].

18 7. Upon information and belief, on April 11, 2012, Expedia notified  
19 plaintiff that it was unable to reinstate plaintiff's flights at the price he originally  
20 paid. Expedia also notified plaintiff that its Terms of Use, published on its website  
21 at the time plaintiff purchased his tickets, provided that "Expedia, Inc. expressly  
22 reserves the right to correct any pricing errors on our website and/or on pending  
23 reservations made under an incorrect price." *See* Exhibit "D" [April 11, 2012  
24 letter from Expedia to plaintiff].

25 8. On April 12, 2012, plaintiff filed the instant action, seeking recovery  
26 for the tickets he purchased at an incorrect rate. *See* Exhibit "E" [plaintiff's  
27 complaint]. Plaintiff's complaint contains only the following statement as to its  
28 theory of liability against Lufthansa: "Lufthansa and it's [sic] agent Expedia refuse

1 [sic] to honor two airline tickets (No. 220-7045046605 and 220-7045068524)  
2 purchased. The plaintiff requires a replacement and relief for damages.”

3 9. Lufthansa was served with a copy of the summons and complaint on  
4 May 17, 2012.

5  
6 I declare under penalty of perjury under the laws of the state of California  
7 that the foregoing is true and correct.

8 Executed this 20th day of June, 2012, at Los Angeles, California.

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12 IVY L. NOWINSKI  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA COUNTY OF LOS ANGELES**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 1901 Avenue of the Stars, Suite 850, Los Angeles, California 90067-6010. On June 20, 2012, I served the within document:

**DECLARATION OF IVY L. NOWINSKI IN SUPPORT OF  
RESPONSE OF DEUTSCHE LUFTHANSA  
AKTIENGESELLSCHAFT TO ORDER TO SHOW CAUSE RE  
REMAND**



**(By Facsimile):** I caused the above-referenced document(s) to be transmitted by facsimile machine to the person(s) at the address(es) set forth below



**(By Mail):** As Follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than on day after the date of deposit for mailing in affidavit.



**(By Personal Service):** I caused the above-referenced document(s) to be personally delivered by hand to the person(s) at the address(es) set forth below.



**(By Overnight Courier):** I caused the above-referenced document(s) to be delivered by an overnight courier service to the person(s) at the address(es) set forth below.

Sebastian Poggel  
8950 W. Olympic Blvd., #270  
Beverly Hills, California 90211

**(Federal):** I declare I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 20, 2012, at Los Angeles, California.

Elisabeth Sillars  
Elisabeth Sillars